

1 K. Lee Marshall (SBN 277092)
2 Abigail Cotton (SBN 306121)
3 BRYAN CAVE LEIGHTON PAISNER LLP
4 Three Embarcadero Center, 7th Floor
5 San Francisco, CA 94111-4078
6 Telephone: (415) 675-3444
7 klmarshall@bclplaw.com
8 abby.cotton@bclplaw.com

9 David A. Roodman (appearance *pro hac vice*)
10 Nick E. Williamson (appearance *pro hac vice*)
11 BRYAN CAVE LEIGHTON PAISNER LLP
12 One Metropolitan Square, 36th Floor
13 St. Louis, MO 63102
14 Telephone: (314) 259-2000
15 daroodman@bclplaw.com
16 nick.williamson@bclplaw.com

17 Attorneys for Plaintiffs
18 *Fluidigm Corporation and Fluidigm Canada Inc.*

19
20
21
22
23
24
25
26
27
28
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FLUIDIGM CORPORATION, A DELAWARE
CORPORATION; AND FLUIDIGM CANADA
INC., A FOREIGN CORPORATION,

Plaintiffs,

v.

IONPATH, INC., A DELAWARE
CORPORATION,

Defendant.

Case No. 3:19-cv-05639-WHA
**DECLARATION OF ABIGAIL
COTTON PURSUANT TO
CIVIL L.R. 7-5**

1 I, Abigail Cotton, declare:

2 1. I am of lawful age to make this declaration.

3 2. All the facts stated herein are true and correct within my personal knowledge, or
4 are based upon my personal knowledge, investigation, and information and belief, which I
5 believe to be accurate, true and correct. If called as a witness, I could and would testify
6 competently to the facts stated herein.

7 3. I am an Associate in the law firm Bryan Cave Leighton Paisner LLP.

8 4. I am one of the attorneys of record for Fluidigm Corporation and Fluidigm
9 Canada Inc.

10 5. I am an active member in good standing of the bar of the State of California.

11 6. Attached as Exhibit A to the Independent Expert Report of Thomas F. Kelly (the
12 “Kelly Rep.”) is a true and correct copy of U.S. Patent No. 10,180,386.

13 7. Attached as Exhibit B to the Kelly Rep. is a true and correct copy of U.S. Patent
14 No. 10,436,698.

15 8. Attached as Exhibit C to the Kelly Rep. is a true and correct copy of U.S. Patent
16 App. No. 09/905,07, Pub. No. 2002/0086441.

17 9. Attached as Exhibit D to the Kelly Rep. is a true and correct copy of an
18 Amendment / Response to Office Action filed on September 18, 2018 in regards to Application
19 No. 15/888,871, which eventually issued as U.S. Patent No. 10,180,386.

20 10. Attached as Exhibit E to the Kelly Rep. is a true and correct copy of a Notice of
21 Allowance dated October 25, 2018, in regards to Application No. 15/888,871, which issued as
22 U.S. Patent No. 10,180,386.

23 11. Attached as Exhibit F to the Kelly Rep. is a true and correct copy of M.W. Blades,
24 *Atomic Mass Spectrometry*, Focal Point, Vol. 48, No. 11, 12A (1994).

25 12. Attached as Exhibit G to the Kelly Rep. is a true and correct copy of Annemie
26 Bogaerts, *Glow Discharge Mass Spectrometry, Methods* (1999).

27 13. Attached as Exhibit H to the Kelly Rep. is a true and correct copy of Thomas L.
28 Colliver et al., *Atomic and Molecular Imaging at the Single-Cell Level with TOF-SIMS*, 69 Anal.

Chem. 2225 (1997).

14. Attached as Exhibit I to the Kelly Rep. is a true and correct copy of Leeat Keren et al., *MIBI-TOF: A multiplexed imaging platform relates cellular phenotypes and tissue structure*, Sci. Adv. 2019, 5 (Oct. 9, 2019).

15. Attached as Exhibit J to the Kelly Rep. is a true and correct copy of an excerpt, pages 55-58, from David J. Larson, et al., *Local Electrode Atom Probe Tomography* (2013).

16. Attached as Exhibit K to the Kelly Rep. is a true and correct copy of Sally L. McArthur et al., *Methods for Generating Protein Molecular Ions in ToF-SIMS*, Langmuir, 20, 3704 (2004).

17. Attached as Exhibit L to the Kelly Rep. is a true and correct copy of Stanislav S. Rubakhin & Jonathan V. Sweedler, *A mass spectrometry primer for mass spectrometry imaging*, Methods Mol. Bio., 656, 21-49 (2010).

18. Attached as Exhibit M to the Kelly Rep. is a true and correct copy of an excerpt comprising Parts III, VIII, and IX, from Robert Thomas, *A Beginner's Guide to ICP-MS, Spectroscopy* (2001-2002), taken from the prosecution history of Application No. 15/888,871, which issued as U.S. Patent No. 10,180,386.

19. Attached as Exhibit N to the Kelly Rep. is a true and correct copy of an excerpt, comprising Chapter 4, from Robert Thomas, *Practical Guide to ICP-MS* (2004).

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 16th day of July, 2020 at San Francisco, California.

/s/ Abigail Cotton

Abigail Cotton

CERTIFICATE OF SERVICE

I hereby certify that on July 16, 2020, I electronically filed the above document with the Clerk of the Court using CM/ECF which will send electronic notification of such filing to all registered counsel of record.

Dated: July 16, 2020

/s/ Abigail Cotton